IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9282 of 2005

Between:

G. Devender Rao, s/o Mohan Rao,
R/o H.No.5-11-2/12, Postal Colony, Yellammagutta, Nizamabad.

..... PETITIONER

AND

1 Northern Power Distribution Company Limited, rep., by its Chairman and Managing Director, Khairatabad, Hyderabad.
2 Northern Power Distribution Company Limited, rep., by its Chief General Manager (HRD), Warangal.
3 Superintending Engineer, Operation Circle, Andhra Pradesh Northern Power Distribution Company Limited, Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction especially one in the nature of mandamus by declaring the action of the respondents rejecting the case of the petitioner in its letter dated 1-2-2004 though he is fully eligible as improper, illegal, arbitrary, and contrary to the judgment of this Hon'ble Court in WP No.5158/03 and batch and consequently direct the respondents to reconsider petitioners case for the appointment for the post of LDC or any other equivalent post as per the BPMS No.36 dated 18-5-97 by considering petitioner's service certificate and set aside the Lt.No.CGM(HRD)/GM(S)/AS-11/PO-IV/509/04 dated 1-2-2005.

Counsel for the Petitioner: SMT.A.PANKAJA

Counsel for the Respondents: MR.SAMINENI KISHORE,

Standing Counsel for AP TRANSCO

This Court at the admission stage made the following:

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O R D E R:

This writ petition is filed by the petitioner aggrieved by the impugned order, dated 01-02-2004, passed by the second respondent.

According to the petitioner, who is a graduate and having necessary technical qualifications, he worked as a contract labourer under M/s Vikram Electricals & Electronics during the period from 01-06-1993 and 31-12-1999. As his case was not considered in terms of BPMS Nos.36, dated 18-05-1997, he filed W.P.No.5746 of 2003 and the same was disposed of along with a batch of writ petitions directing the respondents to consider the case of the petitioners as per the material produced by them, in terms of BPMS No.36, dated 18-05-1997. This Court, while disposing of the said writ petitions, further directed the respondents to give detailed reasons in case of rejection of the case on the ground of not being eligible for appointment. In pursuance of the said directions, the second respondent considered the case of the petitioner in terms of BPMP No.36, dated 18-05-1997, but rejected the same by issuing the impugned order, dated 01-02-2005, on the following grounds:

" i) The petitioner claims to have worked from 01-06-1993 to 31-12-1999 under L.S. Agmt. No.20/93-94, 48 of 95-96, 22/97-98, 40 of 1997-98 and 51 of 97-98.

a. *The LS Agmt. No.22/97-98 was commenced from 16-06-97 i.e., after 18-05-1997.*

b. *The petitioner was therefore, not on the Rolls as on 18-05-1997."*

Aggrieved by the same, the petitioner has come up with the present writ petition.

The learned counsel for the petitioner contends that though as per the service certificate issued by the Proprietor, M/s Vikram Electricals & Electronics, the petitioner worked with reference to five agreements, but the respondents referred to only one agreement i.e., Agreement No.22/97-98 and stated that with reference to the said agreement, the contractual work commenced on 16-06-1997 i.e., after 18-05-1997-the date of issuance of BPMS No.36, and therefore, the petitioner was not on the rolls as on 18-05-1997. The learned counsel further contends that the respondent failed to consider the case of the petitioner with reference to the other agreements and rejected the same without applying his mind to the facts of the case and, therefore, sought for setting aside of the impugned order.

A counter-affidavit is filed on behalf of the respondents disputing and denying the allegations made by the petitioner. In the counter-affidavit, it is stated that as the second respondent passed a speaking order while rejecting the case of the petitioner, there is no merit warranting interference.

Heard the learned counsel on either side and considered the material on record.

Admittedly, the petitioner claimed that he worked as a contract labourer under M/s Vikram Electricals & Electronics, which issued a service certificate, dated 14-05-2001, which was counter-signed by the Assistant Divisional Engineer of the respondent-Company, according to which, the petitioner worked under it during the period from 16-06-1993 and 31-12-1999. In the said certificate, reference

was made to five agreements under which the petitioner worked. Based on the said certificate, the petitioner claimed that he was working as a contract labourer as on 18-05-1997 and therefore, he is entitled for being absorbed in terms of BPMS No.36, dated 18-05-1997. The case of the petitioner was rejected on the ground that the agreement No.22/1997-98 was commenced from 16-06-1997 i.e., after 18-05-1997. There is absolutely no reference to the other agreements, which were referred to in the service certificate, in the impugned order passed by the second respondent. In the circumstances, it is a clear case that the second respondent passed the impugned order without applying his mind and to the facts of the case. In view of the same, the impugned order is liable to be set aside.

Therefore, the impugned order, dated 01-02-2005, passed by the second respondent is set aside. The writ petition is allowed, directing the second respondent to pass appropriate orders with regard to the case of the petitioner within a period of four weeks from the date of receipt of a copy of this order, applying his mind to the facts of the case. No costs.

(S. ANANDA REDDY, J)

Date:21-07-2005

Note: Issue CC in one week.

B/o

ghn

To

1 The Chairman and Managing Director, Northern Power Distribution Company

Limited, Khairatabad, Hyderabad.

2 The Chief General Manager (HRD), Northern Power Distribution Company Limited, Warangal.

3 The Superintending Engineer, Operation Circle, Andhra Pradesh Northern Power Distribution Company Limited, Nizamabad.

4 One CC to Smt. A. Pankaja.

5 Two CD copies.